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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,545	09/23/2003	Joshua T. Goodman	MS303964.1/MSFTP440US	4645

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EXAMINER	
HOMAYOUNMEHR, FARID	

ART UNIT	PAPER NUMBER
2139	

NOTIFICATION DATE	DELIVERY MODE
02/07/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/669,545	GOODMAN ET AL.	
	Examiner	Art Unit	
	Farid Homayounmehr	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,8-25,27 and 29-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 8-25, 27, 29-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to communications: application, filed 9/23/2003; amendment filed 10/31/2007.

2. Claims 1, 8-25, 27, 29-31 are pending in the case. Claims 2-7, 26, 28, 32-70 have been cancelled.

Response to Arguments

3. Applicant's amendments have corrected the deficiencies related to the rejection under section 112 second and sixth paragraphs, and the rejections are withdrawn.

Applicant's amendments have corrected the deficiencies related to the rejection under section 101, and the rejection is withdrawn.

Applicant's argument regarding the rejections based on prior art is found non persuasive in view of the new grounds of rejection and the following discussion.

With regards to claims 1-5, applicant argues that the elements of the claimed invention are not disclosed by Pinkas, however, the combination of Pinkas and Mizrah teaches all the elements, as reflected in the rejections. Applicant discusses the differences between

Order-based HIPs and sequence-based HIPs, however, the combination of Pinkas and Mizrah also teach the order-based HIP.

Applicant further argues: "Order-based Hips, unlike sequence-based HIPs or PINs, require different techniques to be solved, such as not only identifying individual elements, but also providing the correct order of the relevant elements. This is opposed to Pinkas *et al.,* in which a PIN is generated and a selected identifier, and the user identifies the difference between the identifier and the PIN." However, Checking if the PIN is the correct also required user to enter the characters of the PIN in the correct order.

Applicant further argues: "Pinkas *et al.* does not utilize an order-based HIP which includes a first subset of objects that are partially obscured by a second subset of objects." However, the combination of Pinkas and Mizrah teach such limitation as discussed in the rejection.

Based on the discussion above, applicant's argument relative to claims 1-5 is non persuasive.

With respect to claims 6-31, 65, 67 and 68, applicant argues: "In contrast [to Pinkas], applicants' claimed subject matter discloses a system that facilitates identifying human interaction." However, as described in the Abstract, Pinkas teaches identifiers in a format that is recognizable by a human and not readily recognizable by an automated agent.

Applicants further repeat their argument relative to claim 1, which was addressed in the above discussion relative to claim1.

With regards to claim 25, applicant further contends that Mizrah does not cure the deficiencies of Pinkas. However, applicant does not discuss the rejections, or why the combination of Pinkas and Mizrah allegedly fails to make the claimed invention obvious. As discussed in the rejections, Mizrah teaches all elements identified as non disclosed by Pinkas.

Based on the discussion above, applicant's argument relative to allowability of the pending claims is found non persuasive.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 8-25, 27, 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinkas as applied to claims 1-5 above, and further in view of Mizrah (U.S. Patent Application Publication No. 2004/0225880, filed 5/7/2003).

5.1. As per claim 1, Pinkas is directed to a system that facilitates identifying human interaction (abstract) comprising a computer processor executing software components, the software components recorded on a computer-readable medium and being executed by the computer processor: an access control component that controls access to one of a computer-based action and computer-based application (parag. 21-22 describes an authentication system, which is a form of an access control to computer applications); and an identification component that facilitates determining that access is initiated by a human (parag. 21, where RTT distinguishes between a human and an automated program), the identification component presenting an order-based human interactive proof (HIP) problem to be solved before access is allowed (the pin must be identified by the user and returned to the server for authentication. The pin must be entered in sequence, and therefore representing a solution to an order-based problem. This is clearly shown by Pinkas in, for example, parag 34. Also, parag. 21 shows a human interaction is detected and use of RTT is suggested, and therefore teaching the order-based problem being an order-based human interactive proof (HIP)), the order-based problem comprising an arrangement of a plurality of objects whereby a user is asked to correctly identify at least a subset of the objects as well as to identify them in a particular order (the pin is comprised of characters, which are a form of an object, and

must be recognized and entered in order as described in rejection of claim 1) the order being based at least in part upon a set of instructions provided to the user (parag 31 to 34 indicates that the user must follow instructions to enter the PIN), and the identification component communicating with an order-based problem database to retrieve order-based problems as needed (As shown in Fig. 1 and associated text, the PIN is generated in item 103, which is in communication with the server. Note also that parag. 32 shows that the PIN information is stored in memory).

Also, Pinkas teaches the order-based problem being a "start to end" HIP wherein a user is required to find a path of a consistent type and identify objects such as characters along the path (per parag. 24, the characters must be recognized along a path from start to end. Pinkas suggests recognizing characters along a path. However, Pinkas does not specifically suggest recognizing a path. Mizrah clearly teaches recognizing a path by the user in Figs. 8-12 and associated text.

Pinkas and Mizrah are analogous art as they are both directed to establishment of a secure channel between a user and a server. At the time of invention, it would have been obvious to a person skilled in art to incorporate Mizrah's teachings of recognizing a path to the system of Pinkas. The motivation to do so is suggested by Pinkas parag. 24, where it suggests mapping the characters in different locations on screen, and also use of different patterns that is recognizable by a human).

Examiner takes the Official Notice that addition of noise to partially obscure the image such that recognition is made more difficult was well known in the art, and therefore obvious to the one skilled in art. An example is found in US Patent No. 6'195'698 to Lillibridge, col. 3 lines 12-17.

Also, Pinkas and Mizrah teach the path being a consistent type comprising a subset of objects which are connected by a consistent type of connector, the connector being selected from a group consisting of any one of arrows, lines, dotted lines, dashed lines, and shapes (use of arrows to describe the path is suggested by Mizrah Fig. 9 and associated text).

Therefore, claim 1 is made obvious by the combination of Pinkas and Mizrah.

5.2. Limitations of claims 8-24 are directed to use and modification of different types of shapes and patterns, inclusion of background and foreground noise to partially obscure the objects, use of different colors, sizes and other modifications to the image to make it recognizable by human and not by a machine, which are well know techniques to a person skilled in the art. Barring any unexpected results, all modifications and addition of noise included in claims 8-24 would have been obvious to a person skillful in the art of human interaction detection.

5.3. Limitations of claims 25, 27, 29-30 is substantially the same as claims 1, 8-24 above.

5.4. As per claim 31, Pinkas and Mizrah are directed to the method of claim 30, the acceptable answer being at least one of the following: a correct answer; and an answer consistently received from a percentage of users, whereby the percentage exceeds a minimum threshold (a correct answer is an acceptable answer in Pinkas).

5.5. Claims 2-7, 26, 28 and 32-70 have been cancelled by the applicant.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farid Homayounmehr whose telephone number is 571 272 3739. The examiner can normally be reached on 9 hrs Mon-Fri, off Monday biweekly.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Farid Homayounmehr

Examiner

Art Unit: 2132

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SUPERVISORY PATENT EXAMINER
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